CF 1002

(4)

SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH
AT BILASPUR
W.P. (C) NO. 4713 / 2006

Petitioner :

Hari Ram
S/o Banthu Ram
Aged about 36 years,
R/o Village Singhitana,
Block – Lakhanpur,
Tehsil – Ambikapur,
Dist : Sarguja-(C.G.)

P.R. No. 4743/06
Presented by Shri A.N. Pandey
dated 28/8/06

Versus

Respondents :

1. State of Chhattisgarh
Through – The Secretary,
Panchayat D.K.S. Bhawan Raipur-(C.G.)

2. The Collector
Sarguja-(C.G.)

3. The Chief Executive Officer,
Ambikapur,
Dist : Sarguja-(C.G.)

4. The Nayab Tehsildar,
Lakhanpur,
Dist : sarguja-(C.G.)

5. The Secretary
Village – Panchayat
Singhitana, Lakhanpur,
Dist : Sarguja-(C.G.)

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29/8/06
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WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

XI-HC-78

(37)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C) No. 4713/2006 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

**11.10.2006**

Shri A.N. Pandey, counsel for the petitioner.

Shri Satish Gupta, Dy. Govt. Advocate for the State/ respondent No. 1 to 4 on advance copy.

Arguments on admission heard.

Order dictated as follows:

**ORAL ORDER**
**(11.10.2006)**

**SUNIL KUMAR SINHA, J.**

By way of this petition filed under Article 226/227 of the Constitution of India, the petitioner has challenged the validity of order dated 24.8.2006 by which the Upper Collector has dismissed his dispute referred under Section 21 (4) of the M.P./ (C.G.) Panchayat Raj Adhiniyam, 1993.

The brief facts are that a notice of no-confidence motion was filed against the petitioner before the Prescribed Authority, who after satisfying with the contents of the notice of no confidence motion, issued notice for meeting on such motion on 28.7.2006 and fixed a date for 5.8.2006. On 5.8.2006, all 18 members of Gram Panchayat were present. 15 members voted in favour of no confidence motion, 2 votes were cast against motion and 1 vote was declared invalid and the motion was held to be carried out. Against carrying out of the said motion on 5.8.2006, the petitioner made a reference to the Collector and in the said reference, the impugned order was passed against which the petitioner has filed

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P.(C) No. 4713/2006

**मामला क्रमांक ..... सन् 200**

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश —2— | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

this writ petition under Article 226/227 of the Constitution of India.

Learned counsel for the petitioner argues that one *Panch* namely Smt. Sonkaliya had signed on the first order-sheet whereas, she had put thumb impression on the papers of resolution, therefore, it appears that some forgery was committed which vitiated the resolution. The Collector has taken the view that in this regard no objection was taken by the petitioner before the Presiding Officer and further Sonkaliya has not filed any application or affidavit before him to say that she had not cast her vote and some forgery was committed so far as her vote was concerned. He also argues that a clear notice of 7 days was not issued to the Panchas.

In the opinion of this Court, the arguments are not going to help the petitioner for the reason that as per requirement of Section 21 (1) of the M.P. (C.G.) Panchayat Raj Adhiniyam, 1993 a resolution of no-confidence motion must be passed by majority of not less than three fourth of the panchas present and such majority is more than two third of total number of panchas constituting the Gram Panchayat for the time being, which is fulfilled in this case.

In the present case, admittedly, Gram Panchayat was constituted by 18 Panchas and all 18 were present in the meeting of no-confidence motion and 15 members had voted in favour of the motion, whereas 2 of them had voted against the motion and

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.(C) No. 4713/2006 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -3- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

one vote was declared as invalid. Even if we hold that one person less had voted in favour of motion that is only 14 persons have voted in favour of motion, the requirement of Section 21 (1) would be satisfied because 3/4th of 18 would come as 13.5 which may be treated as 14, and 2/3rd would come as 12 and both the requirements were fulfilled. The second point which was raised regarding notice is also not sustainable because notice was issued on 28.7.2006 which was clearly before 7 days of proposed day for meeting of no-confidence motion which was fixed for 5.8.2006. There appears to be no illegality in the impugned order passed by the Collector.

There is no merits in this petition and the same is dismissed at the motion stage.

No Costs.

**Sd/-**
**Sunil Kumar Sinha**
**Judge**

Vatti

P.T.O.

13.10.06